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Trattato di diritto internazionale privato secondo le convenzioni dell'Aja. By G. C. BUZZATI. Volume I: *Introduzione. Il Matrimonio.* Milan, Francesco Vallardi, 1907.—xvi, 448 pp.

The appearance of a work like the present reminds us that a great change is taking place in the law of European countries relating to the conflict of laws, or international private law. This is due to the conventions elaborated at the Hague in the four official conferences of 1893, 1894, 1900 and 1904. As a direct result, treaties are now in force, ratified by at least thirteen European nations, regulating the conflicts of law in respect of (1) civil procedure, (2) marriage, (3) divorce and separation and (4) the guardianship of minors. For action by future conferences, there already exist treaty projects to regulate the conflict of laws in respect of succession, rights in things, parental relations, obligations and proof of foreign law.

Dr. Buzzati is a teacher of international private law and was one of the Italian delegates to the fourth Hague conference. He has set out to follow a somewhat ambitious program, for he intends to cover the entire field of international private law as it has been or shall be established by treaty.

His introductory chapter (149 pp.) is devoted to a history of the movement which led up to the Hague conferences. In this, the Italian government, under the leadership of Mancini, took the initiative as early as 1861 and renewed its efforts twenty years later when Mancini was minister of foreign affairs. Though Italy was the pioneer, it was left for the government of the Netherlands to overcome the difficulties, and under its auspices the conferences accomplished definite results.

The rest of the volume treats of conflicts of law in questions of marriage. The material is therefore coextensive with the second treaty ratified by the powers. As the treaty did not become effective until July 31, 1904, the reader will find very little in the way of interpretation or application of the treaty provisions by courts or administrative officials. The author apologizes for this (Preface) and undertakes to compensate for it by reference to the local laws of each of the countries and by pointing out the changes in law and practice which the treaty has presumably occasioned.

The material is divided into six long chapters, in which are treated: (1) capacity, (2) rules of public order at the place of celebration, (3) proof of capacity, (4) the ceremony, (5) diplomatic and consular marriage and (6) the application of the treaty. Under each chapter except the last, the internal law is discussed in an alphabetical ar-

rangement by countries. The plan has its advantages in that it affords a comparative view of legislation upon each of the sub-heads, but the result tends, in parts, to be too disjointed for a legal treatise. The author's main purpose, to reflect the alteration of substantive law by the treaty, is obscured.

In some instances he seems to lose sight of this purpose ; for he goes outside the territory of the treaty union and, for example, examines the laws of the American states in respect of the capacity to marry. These, it is true, may have a bearing under the treaty, because the basic principle established therein is the respective *lex patriæ* of the contracting parties, one of whom may be an American citizen and the other a citizen of one of the treaty states, while the marriage may be contracted in another treaty state. We cannot follow him, however (*e. g.* p. 141), if we correctly understand him to apply the treaty to the question of the capacity of a citizen of Dakota to marry a German in Germany, for since the United States is not a party to the treaty there is no element of international obligation. We must not be misled by article 8, which makes the treaty applicable "only to marriages solemnized upon the territory of the contracting powers between persons, one of whom at least is a subject of one of these powers." It is impossible to speak with full assurance, on account of the lack of recorded decisions, but it would seem to the reviewer that this article is not declarative but restrictive. The author further assumes that the law of American states setting up the *lex loci actus* as authoritative is equivalent to a *renvoi* to that law. Here again we should read with caution, as authorities are greatly at variance on the question whether such local rules have the force of a *renvoi* in determining the capacity to enter into the relation. It would appear that the best authority, including that of the Institute of International Law (*Annuaire*, XVIII, 179) has been against such an interpretation. In other words, if under the law of the particular American state the party had not the capacity to marry he should not be deemed to have it at the place of the ceremony, for the *lex patriæ* forbids it ; and the *lex patriæ* governs notwithstanding the fact that American practice refers the question of capacity to the *lex loci actus*. Though the doctrine here advocated has not been uniformly recognized, a more thorough examination of European decisions would have shown that the courts of a number of jurisdictions within the treaty union have definitely adopted it.

Much space, especially in the third and fifth chapters, is devoted to problems which are administrative rather than judicial, but this adds to rather than detracts from the value of the book, owing to the existence

in European countries of tribunals with purely administrative functions but with quasi-judicial organization and procedure. Thus the book enables us to obtain a more homogeneous view of the operation of the treaty.

It is to be observed that the conferences have not attempted to unify legislation upon any subject, least of all in respect of marriage. On the contrary, the presumption of variance in legislation forms the very basis of the work of the conferences. What has been done, however, is to create by treaty a uniform system of solving the conflicts, so that a juristic act, once completed, shall be judged by the same system of substantive law, no matter in what forum the act be ultimately judged.

It is the author's purpose to present the law according to the conventions, and he does not undertake to criticize the conventions themselves. The many limitations and exceptions embodied in the treaty upon the demand of some states, in favor of the application of their own laws, might well have tempted him to engage in academic discussion; there is, for example, a saving clause in favor of the exclusively religious sanction prescribed by the Russian law of marriage which invites comment; but Dr. Buzzati has remained consistently and commendably practical.

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The Process of Government: A Study of Social Pressures.

By ARTHUR F. BENTLEY. The University of Chicago Press, 1908.—xv, 501 pp.

Most of the writers on government in the United States have confined their efforts to descriptive work, and for that reason Mr. Bentley's attempt to get below formalism into the governing process as a manifestation of social pressures deserves serious consideration, even though he is at times tedious and at other times unnecessarily rude to his predecessors in the field of politics. One-half of his book is severely critical—an attempt to make short shrift of all the publicists and sociologists who have sought the causes of social processes in types of mind, feelings, faculties and opinions. No one escapes Mr. Bentley's sharp pen: Small, Spencer, Westermarck, Pearson, Giddings, Dicey and others are dealt with in a manner that would be more engaging were it more courteous, but which nevertheless has much that is instructive and convincing. The method and spirit of the author and the kind of political writing he especially disapproves may be best illustrated by a single quotation: